

## **101 KAR 3:050. Unclassified service; promotion, transfer, and disciplinary actions.**

RELATES TO: KRS 12.040, 12.050, 18A.115, 18A.155

STATUTORY AUTHORITY: KRS 18A.155(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155(1) requires the Secretary of Personnel to promulgate administrative regulations for persons in positions as established in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). KRS 18A.155(2) authorizes administrative regulations pursuant to KRS 18A.155(1), which may be used on behalf of employees as established in KRS 18A.115(1)(a), (b), (d), (e), (p), (u), and (w) and on behalf of members of state boards and commissions that work on a full-time, salaried basis. This administrative regulation establishes requirements for the employment, promotion, transfer, or discipline of employees in unclassified service.

Section 1. Appointment. (1) An employee appointed to a position in the unclassified service, subject to this administrative regulation, shall meet the minimum requirements established for the class of position to which the appointment is made.

(2) If an interim employee serves in an interim capacity, the interim shall be for less than nine (9) full months in a single department during a twelve (12) month period.

(3) An employee appointed to a position subject to this administrative regulation shall serve at the will of the appointing authority and shall be subject to termination without prior notice or cause.

Section 2. Promotion. (1) A vacant position subject to this administrative regulation, other than an interim position, may be filled by promotion from the classified or unclassified service.

(2) If the promotion is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the promotion.

Section 3. Transfer. (1) A vacant position subject to this administrative regulation, other than an interim position, may be filled by transfer within the unclassified service, if in the best interest of the agency.

(2) If the transfer is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the transfer.

Section 4. Demotion. (1) An employee subject to this administrative regulation, other than an interim employee, may be demoted to another position with or without cause on a voluntary or involuntary basis. An involuntary demotion shall be done on an intra-agency basis only.

(2) If the demotion is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

Section 5. Detail to Special Duty. (1) If the services of an employee subject to this administrative regulation, other than an interim employee, are needed in an unclassified position within an agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Secretary of Personnel.

(2) If the detail is to a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the detail.

Section 6. Temporary Overlap. (1) With the prior approval of the Secretary of Personnel, an agency may place an employee, other than an interim employee, in an unclassified position

currently occupied by another employee. The placement shall not exceed ninety (90) calendar days for training purposes.

(2) If the overlap is in a position requiring approval pursuant to KRS 12.040 or 12.050, approval shall be obtained prior to the effective date of the action.

#### Section 7. Separations. (1) Resignations and retirement.

(a) An employee who desires to terminate his service with the state shall submit a written resignation or notice of retirement to the appointing authority.

(b) A resignation or notice of retirement shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation or notice of retirement shall be attached to the personnel action effecting the separation and shall be filed in the employee's service record in the agency and the Personnel Cabinet.

(c) Failure of an employee to give fourteen (14) calendar days' notice of resignation or notice of retirement may result in forfeiture of accrued annual leave, based on:

(a) If the fourteen (14) day deadline was:

1. Practicable under the circumstances;
2. Appropriate for the situation; and
3. Complied with; or

(b) If the appointing authority and the employee have agreed that the employee shall retain the leave.

(2) Termination. An employee subject to this administrative regulation may be terminated with or without cause.

(a) If the appointing authority elects to terminate the employee for cause, the employee shall be provided with notice in writing of the reasons for termination and of the employee's right to appeal to the Personnel Board pursuant to KRS 18A.095.

(b) If the appointing authority elects to terminate the employee without cause, this decision shall be stated in the written notice to the employee.

Section 8. Applicability for Classified Employees. Except as provided in this administrative regulation, the provisions of 101 KAR 2:095, 2:105, 2:140, 2:150 and 2:160 shall apply to an employee in the unclassified service. (13 Ky.R. 439; eff. 9-4-86; Am. 15 Ky.R. 2101; 16 Ky.R. 590; 1221; 1585; eff. 2-3-90; 26 Ky.R. 413; 716; eff. 9-22-99; 39 Ky.R. 2375; 40 Ky.R. 269; eff. 9-6-2013.)